

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MIGUEL TADEO, ERNESTO VILLEGAS, and AURELIANO
TLETALPA, individually and on behalf of all other persons
similarly situated who were employed by ABITINO FOODS,
INC. d/b/a ABITINO'S PIZZERIA, and MARIO ABITINO,
individually,

Plaintiffs,

-against-

ABITINO FOODS, INC. d/b/a ABITINO'S PIZZERIA, and
MARIO ABITINO, individually,

Defendants.

16-CV-2432 (PAE)

**SO ORDERED STIPULATION
FOR COLLECTIVE ACTION
CERTIFICATION**

WHEREAS, in the above captioned action, the Named Plaintiffs individually and on behalf of a class of workers (collectively "Plaintiffs") have alleged that they performed work for and on behalf of Defendants ABITINO FOODS, INC. d/b/a ABITINO'S PIZZERIA, and MARIO ABITINO (collectively "Defendants"), but were not paid overtime compensation for hours worked beyond forty in a workweek; and

WHEREAS, Plaintiffs seek an Order certifying this action as a collective action pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b); it is now

HEREBY STIPULATED, CONSENTED AND AGREED, by and among the parties that, after due consideration, this action shall be maintained and shall proceed as a proposed collective action on behalf of the following individuals:

All individuals who were employed by Abitino's Foods, Inc. d/b/a Abitino's Pizzeria, and Mario Abitino, individually, who performed work as dishwashers, cooks, food preparers, delivery persons, food stockers, counter persons, and in other restaurant-related occupations at Abitino's Pizzerias from August 15, 2013 through the present. This does not include supervisors, officers, executive, managerial, or administrative personnel

IT IS FURTHER HEREBY STIPULATED, CONSENTED AND AGREED, by and

among the undersigned attorneys for the parties, the Notice of Pendency of Lawsuit and the Consent to Join Form annexed hereto as Exhibit A respectively are approved;

IT IS FURTHER HEREBY STIPULATED, CONSENTED AND AGREED, by and among the undersigned attorneys for the parties, Defendants shall furnish Plaintiffs' Counsel with the last known address of the individual members of the collective on or before the thirtieth day after this Order has been signed by the Court; and

IT IS FURTHER HEREBY STIPULATED, CONSENTED AND AGREED, by and among the undersigned attorneys for the parties, a copy of the Notice is to be translated into Spanish, and is to be mailed via First Class Mail to all known members of the collective on or before fifteen days after receipt of the mailing addresses of the individual members; and

IT IS FURTHER HEREBY STIPULATED, CONSENTED AND AGREED, by and among the undersigned attorneys for the parties, that putative collective members shall have sixty (60) days from the date they receive the Court Authorized Notice ("Notice") and Consent to Join Form to opt-in to the collective; and

IT IS FURTHER HEREBY STIPULATED, CONSENTED AND AGREED, by and among the undersigned attorneys for the parties, that on the date the Notice is mailed out to the putative collective, Defendants shall post the Notice in a conspicuous place at Defendants' premises, so that potential claimants may be informed that this action has been certified as a collective action pursuant to 29 U.S.C. 216(b); and

IT IS FURTHER HEREBY STIPULATED, CONSENTED AND AGREED, by and among the undersigned attorneys for the parties, that by signing this Stipulation, the Defendants are not waiving any of their rights to move to decertify the proposed Collective at a later time.

IT IS FURTHER HEREBY STIPULATED, CONSENTED AND AGREED, by and

among the undersigned attorneys for the parties, the Court approves the form of Notice and finds that the publishing of such Notice substantially in the manner and form set forth in this Order will constitute the best notice practicable under the circumstances to members of the collective.

Dated: New York, New York

7/23/16, 2016

Anthony G. Mango
Mango & Iacoviello, LLP
14 Penn Plaza
New York, NY 10122

By: 

Anthony G. Mango, Esq.

VIRGINIA & AMBINDER, LLP
Attorneys for Plaintiffs and Putative Class
40 Broad St., 7th Floor
New York, New York 10004
(212) 943-9080

By: 

Michele A. Moreno, Esq.

SO ORDERED:

9/24/2016


Hon. Paul A. Englemayer, U.S.D.J.

em